

**MISSION ORDER
USAID MISSION FOR AFGHANISTAN**

ADS Series 200 Programming Policy	Mission Order 201.04	Supplements Mission Order 201.03	Responsible Office RLA
References: Executive Order 13224 Title 18 US Code, Sections 287, 371, 1001, 1341, 1344, 2339A and 2339B AAPD 04-14 Mission Order 201.03		Subject: National Security Screening (Non-US Party Vetting)	Effective Date: On the date signed below

I. PURPOSE

The purpose of this Mission Order is to describe procedures to ensure that the Mission's programs do not provide, even inadvertently, support to Prohibited Parties (as defined herein). This Mission Order supplements Mission Order 201.03 (Terrorist Finance Risk Assessment, dated October 2009).

II. DEFINITIONS

As used in this Mission Order, including the Appendices.

“Award” means any contract, grant, guarantee, cooperative agreement, or any other instrument that acts as any of the same awarded by USAID. Unless the context otherwise requires, an Award includes Sub-awards, as defined below.

“Awardee” means any individual or organization that receives an Award. Unless the context otherwise requires, an Awardee includes Sub-awardees, as defined below.

“CO” or “AO” means the Contract or the Agreement Officer, as applicable.

“COTR” or “AOTR” means the Contracting Officer’s or the Agreement Officer’s Technical Representative, who is responsible for day-to-day management of the project or activity in question.

“Information Form” means the form attached as Appendix B that initiates a vetting request.

“Joint Contingency Contracting System (JCCS)” means the database maintained by the CENTCOM Contracting Command that contains the joint contingency vendor vetting information and recommendations.

“Key Individuals” means the individuals defined in Appendix A.3 below. The definition of Key Individuals is not the same as "key personnel" under a contract, grant or cooperative agreement.

“Non-US Party” means (1) any non-US citizen or (2) any entity that is not formed in the United States or for which 50% or more of the equity is owned or controlled by persons who are not U.S. citizens or permanent legal residents of the United States.

“Prohibited Party” means an individual or entity for which there are reasonable grounds to believe that such individual or entity is or was engaged in criminal, terrorist, or intelligence activities that are inconsistent with the interests of U.S. national security or the integrity of USAID programs.

“Public International Organization” or “PIO” means international organizations designated by executive order as public international organizations entitled to enjoy the privileges, exemptions, and immunities conferred by the International Organizations Immunities Act.

“Sub-award” means any grant, subgrant, guarantee, subcontract, or any other instrument that acts as any of the same awarded by an Awardee pursuant to an Award.

“Sub-awardee” means any individual or organization that receives a Sub-award.

“VO” means the Vetting Support Official who heads the VSU and is a U.S. citizen.

“Vetting Threshold” means any Award or Sub-award exceeding \$150,000 as further defined in Appendix A.2.a.

“VSU” means the Vetting Support Unit of the USAID Mission.

III. AUTHORITIES AND REFERENCES

To protect national security interests and as the steward of USG funds, USAID must take reasonable and appropriate steps to ensure that neither USAID funds nor USAID-funded activities inadvertently or otherwise provide support to terrorist or criminal groups.

U.S. government agencies, as well as Congressional committees have paid increasing attention to the risks of U.S. contracting and reconstruction funds in Afghanistan being diverted to insurgent or criminal groups, with several Congressional committees having issued reports detailing their concerns. See, e.g., “Inquiry into the Role and Oversight of Private Security Contractors in Afghanistan Report, Together with Additional Views of the Committee on Armed Services U.S. Senate, September 28, 2010”. Additionally, GAO has undertaken a review to identify what efforts are underway to ensure that U.S. contracting funds or resources are not diverted to support terrorist or criminal groups.

With respect to terrorism, Executive Order 13224 (9/25/2001) blocks property and interests in property of individuals and entities that are designated as committing, or posing a significant risk of committing, terrorist acts. The Order prohibits all transactions and dealings in blocked property or interests in the U.S. or by U.S. persons. It also prohibits transactions with, and provision of support for, individuals or entities designated in or subject to the Order.

E.O. 13224 is just one of several statutes, regulations and Executive Orders pertaining to terrorism. Others include Title 18 USC Sections 2339A and 2339B, which prohibit the provision of material support or resources for terrorist acts or to designated foreign terrorist organizations.

USAID Afghanistan Mission Order #: 201.03 (Oct 2009) requires the Mission to complete terrorist financing risk assessments prior to the request for any program funds. It also introduces the concept of vetting.

With respect to criminal activity, a number of statutes exist that criminalize fraud against the government, including Title 18 USC 1001 (false statements), Title 18 USC 287 (false claims), Title 18 USC 371 (conspiracy to defraud the government), Title 18 USC 1341 (mail fraud), and Title 18 USC 1341 and 1343 (wire fraud).

The Department of Defense (DOD) has also established a vendor vetting program to ensure that DOD resources are not used to support terrorist, insurgent, criminal or militia groups.

The USAID Cable 11 KABUL 372 (01/22/2011) outlines the structure of, and need for, a Vetting Support Unit for the Mission in Kabul.

IV. ADDITIONAL BACKGROUND INFORMATION

In addition to the vetting procedures established by this Mission Order, several less formal means exist to limit support to Prohibited Parties. First, in order to ensure compliance with E.O. 13224 and related requirements, all Awardees are expected to conduct their own review of Non-US Parties competing for Sub-awards. Additionally, the CO or AO, as applicable, are required to check relevant lists including the special designated nationals list (SDN) and the excluded parties list (EPLS). Second, before an Award is made, the staff of USAID (in the case of a prime Award) or the staff of the prime Awardee (in the case of Sub-awards) must scrutinize various aspects of that Entity's operations as part of the standard due diligence and pre-award survey. Third, the personal knowledge of USAID staff is taken into account before any Award is made or a Sub-award is approved. Finally, knowing that Non-US Parties will be subject to such scrutiny discourages Prohibited Parties from applying for USAID-financed assistance in the first place.

V. PROCEDURES FOR VETTING

Appendix A details the procedures for vetting Non-US Parties. These procedures are subject to change. Check with the VSU for updates prior to implementing.

VI. ANTI-TERRORISM CERTIFICATION (ATC)

On September 24, 2004, USAID/Washington's Office of Acquisition and Assistance issued Acquisition & Assistance Policy Directive (AAPD) 04-14, "Certification Regarding Terrorists Financing Implementation E.O. 13224 (Revision 2)". The AAPD requires that all U.S. and non-U.S. organizations certify, before being awarded a grant or cooperative agreement by USAID,

that the organization does not provide material support or resources for terrorism. The text of the certification is shown as Appendix D.

The Anti-Terrorism Certification (ATC) requirement applies to the prime Awardees of grants and cooperative agreements and to the recipients of Grants Under Contracts (GUCs). The requirement for prime Awardees and Awardees of GUCs also includes assistance instruments in any form to the extent such instruments are used as obligating documents to provide assistance.

The ATC applies only to the non-governmental organizations that receive awards of cash or in-kind assistance. It does not apply to 1) individuals, 2) Public International Organizations (PIOs), 3) the host government (including sub-national units), 4) contractors, or 5) subcontractors. Note that because municipalities are not NGOs, they need not sign the ATC when they receive in-kind assistance (e.g. technical assistance, training, supplies, equipment, or construction services).

The Office of Acquisitions and Assistance (OAA) is responsible for obtaining ATCs before making awards to prime Awardees. USAID's Awardees are responsible for obtaining ATCs before making GUC to Sub-awardees, in accordance with this section.

VII. MANDATORY CLAUSES

To implement these vetting procedures, the clause shown in Appendix E is to be used for solicitations, and the clause shown in Appendix F, for all non-PIO Awards. For grants to PIOs, the clause shown in Appendix G is used to supplement the standard provision entitled "Terrorist Financing Clause (UN Grants) May 2003)" (See ADS 308, Mandatory References, Standard Provisions for Grants to Public International Organizations, Required as Applicable Standard Provisions.)

VIII. Afghanistan Counter-Terrorism Team

In order to address implementation and interagency issues, the Mission shall establish an Afghanistan Counter-Terrorism Team (ACTT), chaired by the Senior Deputy Mission Director (SDMD) with members drawn from the VSU, OAA, and the Regional Legal Office (RLO). As needed, representatives from program, field, and technical offices may also be assigned as members.

The ACTT will have the following duties:

1. Work to establish an inter-agency decision making body in Afghanistan, which will be responsible for making Award determinations in the event of negative information.
2. Establishing reporting metrics for the VSU;
3. Reporting to the Mission Director key issues regarding the vetting process;
4. Participating fully in the inter-agency vetting process;
5. Updating the contract clauses attached hereto, as necessary;
6. Drafting subsequent iterations of this Mission Order to incorporate the inter-agency decision making body, as well as best practices in the vetting process;

7. Assisting the VSU at all phases of implementation set forth in Phase-in Plan. See Appendix H;
8. Working with the VSU to modify as needed the criteria used to establish risk based indicators technical offices will use to submit potential Awardees to the VSU outside of the Vetting Threshold. See Appendix I; and
9. Identify issues and procedures for informing and coordinating with the Afghan Government, as necessary, on the implementation of this Mission Order.

XI. EFFECTIVE DATE

This Mission Order will go into effect on the date signed by the Mission Director below.

Mission Director: Earl Gast



Date

5/9/2011

IX. APPENDICIES

- A. Vetting Procedures
- B. Information Form
- C. Sample Notification Language
- D. Anti-Terrorism Certification
- E. Solicitations
- F. Mandatory Clauses for Awards
- G. Mandatory Clause (PIO Grants)
- H. Phase-in Plan
- I. Risk Based Vetting

Appendix A: Vetting Procedures

1. **Applicability:** Vetting is conducted by USAID in connection with its review and approval of proposed Awards and Sub-awards to Non-US Parties:
 - a. **Contractors and subcontractors:** Any Non-US Parties proposed for award of a contract, subcontract, or any instrument acting as any of the same in excess of \$150,000. This includes USAID-awarded contracts, prime contractor-awarded subcontracts and contracts awarded by grantees and recipients of cooperative agreements. For the avoidance of doubt, this Mission Order applies to all Non-US Party Sub-awardees of private security company contracts/subcontracts regardless of award value.
 - b. **Recipients of assistance instruments:** Any Non-US Parties proposed for award of a grant, cooperative agreement, subgrant, or any instrument acting as any of the same in excess of \$150,000. This includes USAID-awarded grants and cooperative agreements, prime contractor-awarded grants under contracts (GUCs) and subgrants under grants or cooperative agreements.
 - c. **Other situations:** Even if vetting would not otherwise be required under these rules, vetting will be conducted whenever USAID has reason to believe that the Awardee or Sub-awardee could be a Prohibited Party. USAID will implement the risk based criteria outlined in Appendix I to further define applicability. USAID may also conduct vetting pursuant to any internal or external audits.
2. **Further Rules on Applicability:**
 - a. **Vetting Threshold:** The \$150,000 threshold applies to all Awards, Sub-awards, and their amendments. If an amendment, modification, or additional order would increase the amount of an Award or Sub-award above \$150,000, vetting shall be required. Given the cost and burden of implementing a tracking system, the threshold is not cumulative for multiple awards. However, if the CO or the VSU becomes aware of the possibility of several awards being granted to the same Awardee, vetting should be requested. Additionally, all Awards to Non-U.S. Parties for private security services are subject to vetting regardless of the Award amount.
 - b. **Government Officials:** Government officials, including parliamentarians and national, provincial, district and municipal officials, are subject to vetting to the same extent as other Non-US Parties.
 - c. **PIOs:** Although public international organizations (PIOs) are not themselves subject to vetting, Non-US Parties to whom PIOs make Awards or otherwise provide assistance are subject to vetting by USAID in accordance with these rules.
 - d. **Educational Institutions:** Vetting applies to colleges, universities and other educational institutions to the same extent as other types of organizations.

- e. **Branches:** If a branch is a potential Awardee, the parent organization must be vetted. If an organization has been previously vetted, whether subsequent vetting will be required for each of its branches that receives assistance will be decided by the Deputy Mission Director (DMD) on a case-by-case basis. This decision will depend largely on the extent to which the organization's headquarters oversees and controls the activities of the branches.
 - f. **Inter-Agency Transfers:** For Awards under interagency agreements pursuant to Section 632(a) or (b) of the Foreign Assistance Act, it will be incumbent upon the recipient agency to implement appropriate review procedures to ensure compliance with E.O. 13224 and related requirements.
3. **Vetting of "Key Individuals":** Whenever an entity that is a Non-US Party must be vetted, each of its "Key Individuals" who are not U.S. citizens or permanent legal residents must also be vetted. "Key individuals" means:
- a. Any large shareholder, which is defined as an individual or entity owning 10% or more equity stake in the organization, whether publicly- or privately-held;
 - b. Principal officers of the organization's governing body (e.g., chairman, vice chairman, treasurer or secretary of the board of directors or board of trustees);
 - c. The principal officer and deputy principal officer of the organization (e.g., executive director, deputy director; president, vice president);
 - d. The program manager or chief of party for the USAID-financed program; and
 - e. Any other person with significant responsibilities for administration of USAID-financed activities or resources (while a comprehensive list is not possible, this would include any person acting in a role substantially similar to those outlined in a-d. For Private Security Companies, this would include leadership roles down to the level of field commanders).

Note that the definition of "Key Individuals" differs from the definition of "Key Personnel" under a contract, grant or cooperative agreement.

4. Obtaining Data Needed for Review:

- a. As specified in the solicitation, Non-U.S. Parties will submit the Information Form to the VSU (Kabul_usaid_vsu@state.gov) at the same time they submit their proposal.
- b. Prime Awardees will be responsible for collecting, verifying and submitting the Information Form to the VSU (Kabul_usaid_vsu@state.gov) for each proposed Sub-award within the Vetting Threshold. The prime Awardee completes the Information Form and is considered the vetting requestor.

- c. All prospective Non-U.S. Awardees are required to register in the JCCS system, (http://www.jccs.gov/olvr/bta_olvr_registration_instructions.aspx) prior to competing for any USAID assistance.

5. Vetting Flow:

Step 1: Upon receipt, the VSU will review the Information Form for completeness and accuracy and will seek any additional information necessary.

Step 2: The VSU will request that USAID/SEC-Washington vet the proposed Awardee either by using the Information Form (IF) to enter the appropriate information in the USAID/SEC vetting database or by updating and resubmitting a previous IF.

Step 3: Upon receiving the request, USAID/SEC will search relevant databases for derogatory information.

1. If no derogatory information is found, USAID/SEC will send an eligibility recommendation to the VSU. The VSU will inform the cognizant CO/AO of the eligibility recommendation.
2. If derogatory information is found, USAID/SEC or the VO may request additional information about the Non-US Party in question - for example, an individual's occupation or address of residence, if not already provided. This information may enable USAID/SEC to determine if a "false positive" has occurred, or it may confirm that suspected affiliations truly exist. When additional identifying information is needed, the request will be made to more than one person whenever possible - for example, to all "Key Individuals" of a Non-US Party - to avoid disclosing which individual(s) triggered the request.
3. In cases where sufficient derogatory information exists, USAID/SEC will make a recommendation of ineligible. In other cases, where insufficient or unsubstantiated derogatory information exists, USAID/SEC will make a recommendation of eligible.
4. In all cases where derogatory information exists, the process proceeds to Step 4.

Step 4: When derogatory information exists, the VO will inform the SDMD of the eligible/ineligible recommendation and provide the SDMD all derogatory and mitigating information. In consultation with the VSU, RLO, and others as needed, including representatives from program, field, and technical offices, the SDMD will perform one of the following actions:

- (1) approve SEC's recommendation, thereby allowing the cognizant CO/AO to proceed to grant or deny the Award;

- (2) if there is a recommendation of eligible (despite derogatory information), overturn such recommendation, thereby preventing the cognizant CO/AO from proceeding to Award;
- (3) if there is a recommendation of eligible (despite derogatory information), and the SDMD is unable to make a determination, refer the matter to the Assistant Administrator (AA) for Office of Afghanistan/Pakistan Affairs (OAPA) if the Mission seeks a determination that the awardee is eligible for the specific award; or
- (4) if there is recommendation of ineligible, refer the matter to the AA for OAPA if the Mission believes that there is an acceptable risk and seeks a determination that the awardee is eligible for the specific award.

6. Notification of Final Decision:

- a. Once a final decision has been made, the VO will promptly send written notice of the decision to the AO or CO with respect to a request pursuant to Section 4(a) or to prime Awardee with respect to a request pursuant to Section 4(b) above. Notices to outside parties should conform to the language shown in Appendix C. A copy of the final decision will be retained in VSU's files.
- b. The VO will notify Management Bureau/Office of Acquisition and Assistance/Compliance and Oversight of Partner Performance M/OAA/COPP in Washington when a decision is made pursuant to Step 4 above that a Non-US Party is ineligible and will provide the Suspension and Debarment Official with any relevant information.

7. Duration of Approval:

- a. Once an Awardee has been deemed eligible and has received an Award, the approval generally will remain in effect for that particular Award for one year. However, new vetting will be required if there is any change in the Awardee's "Key Individuals." The Awardee is required to keep USAID apprised of changes in the "Key Individuals." USAID reserves the right to vet or re-vet any Non-U.S. Party awarded or competing for award at any time regardless of previous vetting date.
- b. Vetting approval may be rescinded if USAID obtains information indicating that the Awardee or any of its "Key Individuals" is found to be a Prohibited Party. When such information arises, the VO shall consult with the SDMD, the Regional Legal Advisor (RLA), SEC, the CO/AO, and the applicable technical office, to determine the appropriate course of action.
- c. Each Awardee must be vetted for each new Award that exceeds the Vetting Threshold, and at least annually for the duration of an Award.

8. **Records:** USAID/SEC will maintain a database showing all Non-US Parties that have been submitted for review and the status of each case. Due to the sensitivity of information in the database, it will be made available only to the ACTT and those with an official need-to-know, as determined by the VO or SDMD. VSU will store all its files in a secure area, and will update the USAID/SEC and JCCS databases with vetting decisions.

Appendix B: USAID Information Form

Part I: Information About Proposed Activities (all parts mandatory)		
1. Name of the proposed awardee of USAID contract or assistance (Firms must include a copy of applicable licenses to do business in Afghanistan)		
2. Type of proposed award or other assistance (check one): <input type="checkbox"/> Contract or Subcontract <input type="checkbox"/> Grant or Subgrant <input type="checkbox"/> Training <input type="checkbox"/> Equipment <input type="checkbox"/> Other		
3. US\$ amount and estimated start/end date of proposed award or assistance: Dollar amount: \$ Start: End:		
4. Purpose of proposed award or assistance:		
5. Organization proposed to receive award or other assistance:		
a. Name:		b. JCCS Registration #
c. Address:		
d. Telephone:	e. Fax:	f. Email:
g. Tribal affiliation or clan	h. Bank name and account	i. Bank electronic transfer information:
6. Information on Key Individuals associated with the organization named in 5 above, or, if no organization is listed, information on each individual to receive cash or in-kind assistance (including technical assistance). Use continuation sheets as necessary. ** = mandatory information.		
A. Name (As in passport or other government-issued photo ID):**		Government-issued photo ID number, type of ID and country of issuance:**
Place of birth:**	Date of birth:** (mm/dd/yyyy)	Rank or title in organization listed in #5 (if "key individual"):**
Other names used (may include nicknames, pseudonyms not listed under "Name"):**		Gender:**
Current employer and job title:		Occupation:
Address of residence:**		Citizenship(s):** (Afghans: Tribal affiliations and Father's Name)
Email:		
Part II: Contractor/Grantee/Recipient Certification:		
Potential Awardee certifies in submitting this form that it has taken reasonable steps (in accordance with sound business practices) to verify the information contained in this form. Contractor/Grantee/Recipient understands that the U.S. Government may rely on the accuracy of such information in processing this vetting request.		
Name:		Signature:
Title/Organization:		Date:
Part III: Submission details (to be completed by USG vetting official)		
Vetting request number		
Staff member who initiated request		
Project name		
Date submitted for screening		

USAID Information Form Continuation Sheet for Part I, Section 6: List of Individuals
(Use additional continuation sheets as necessary):

B. Name (As in passport or other government-issued photo ID):**		Government-issued photo ID number, type of ID and country of issuance:**
Place of birth:**	Date of birth:** (mm/dd/yyyy)	Rank or title in organization listed in #5 (if "key individual"):**
Other names used (may include nicknames, pseudonyms not listed under "Name"):**		Gender:**
Current employer and job title:**		Occupation:
Address of residence:**		Citizenship(s):** (Afghans: Tribal affiliations and Father's Name)
Email:		
C. Name (As in passport or other government-issued photo ID):**		Government-issued photo ID number, type of ID and country of issuance:**
Place of birth:**	Date of birth:** (mm/dd/yyyy)	Rank or title in organization listed in #5 (if "key individual"):**
Other names used (may include nicknames, pseudonyms not listed under "Name"):**		Gender:**
Current employer and job title:**		Occupation:
Address of residence:**		Citizenship(s):** (Afghans: Tribal affiliations and Father's Name)
Email:		
D. Name (As in passport or other government-issued photo ID):**		Government-issued photo ID number, type of ID and country of issuance:**
Place of birth:**	Date of birth:** (mm/dd/yyyy)	Rank or title in organization listed in #5 (if "key individual"):**
Other names used (may include nicknames, pseudonyms not listed under "Name"):**		Gender:**
Current employer and job title:		Occupation:
Address of residence:**		Citizenship(s):** (Afghans: Tribal affiliations and Father's Name)
Email:		
E. Name (As in passport or other government-issued photo ID):**		Government-issued photo ID number, type of ID and country of issuance:**
Place of birth:**	Date of birth:** (mm/dd/yyyy)	Rank or title in organization listed in #5 (if "key individual"):**
Other names used (may include nicknames, pseudonyms not listed under "Name"):**		Gender:**
Current employer and job title:		Occupation:
Address of residence:**		Citizenship(s):** (Afghans: Tribal affiliations and Father's Name)
Email:		

INFORMATION FORM INSTRUCTIONS

Please provide information for key individuals of all organizations receiving funds from USAID, including grantees, sub-grantees, contractors, and vendors, who work in Afghanistan. Please do not provide information for United States citizens or permanent legal residents of the United States.

Part I

Question 1 – Self-explanatory

Question 2- Indicate the proposed type of mechanism to be utilized by placing a check mark on the line in front of the appropriate term

Question 3 – Enter the amount of award or assistance in U.S. dollars and indicate the start and end date of the program using a mm/dd/yyyy format

Question 4 – Indicate the purpose of the award or assistance. Use additional sheets and attach to page one of the vetting form if necessary

Question 5 a-i – Self-explanatory.

Attach a copy of the relevant Afghan business license.

Question 6 - "**Key Individual**" means (i) Any large shareholder: defined as owning 10% or more of an equity stake in the organization, whether publically or privately held; (ii) Principal officers of the organization's governing body (e.g., chairman, vice chairman, treasurer or secretary of the board of directors or board of trustees); (iii) The principal officer and deputy principal officer of the organization (e.g., executive director, deputy director; president, vice president); (iv) The program manager or chief of party for the USAID-financed program; and (v) Any other person with significant responsibilities for administration of USAID financed activities or resources (while a comprehensive list is not possible, this would include any person acting in a role substantially similar to those outlined in (i)-(iv). For Private Security Companies, this would include leadership roles down to the level of field commanders).

Complete for each of these four categories or indicate "N/A" if a category does not apply. Use additional pages as needed. Attach copies of photo ID for each "key individual".

Note: If a "Key Individual" is a U.S. Citizen or Permanent Residents no information is required.

Part II

Individual filling out form must read the Certification and print their name where indicated, sign where indicated, print their title and the name of their organization where indicated, and print the date where indicated.

Part III

This section is not for individual's information and will be completed by the USG vetting official.

Appendix C: Notional language for Eligibility Letters

[The language below is suggested for notices to prime award recipients about proposed sub-awards. Notices to prime awardees about themselves should be modified as appropriate.]

Notice of Eligibility

I am writing with regard to _____, which your organization has proposed to receive an award of USAID assistance. USAID has determined that _____ is eligible to receive such assistance. However, USAID reserves the right to rescind this approval in the event that USAID becomes aware of information indicating that the award is contrary to U.S. law or policy prohibiting support for terrorism or criminal activity. Furthermore, a new request for approval will be required annually or if your organization wishes to make a new award to _____.

This approval does not relieve your organization of its legal obligation to comply with U.S. Executive Orders and U.S. law prohibiting transactions with, and the provision of resources and support to, individuals and organizations associated with terrorism.

As required by the terms of your contract/agreement with USAID, please promptly notify me in the event of any change in the identity of _____'s "key individuals." I request that you also notify me if there is a material change in the program or operations of _____, or any development that might cause USAID to reconsider _____'s eligibility.

Notice of Ineligibility

I am writing with regard to _____, which your organization has proposed to receive USAID assistance. After careful consideration, USAID has determined that _____ is not eligible to receive assistance funded by USAID. We encourage you to identify another candidate to receive the proposed assistance.

Appendix D: ATC Certification

By signing and submitting this application, the prospective recipient provides the certification set out below:

1. The Recipient, to the best of its current knowledge, did not provide, within the previous ten years, and will take all reasonable steps to ensure that it does not and will not knowingly provide, material support or resources to any individual or entity that commits, attempts to commit, advocates, facilitates, or participates in terrorist acts, or has committed, attempted to commit, facilitated, or participated in terrorist acts, as that term is defined in paragraph 3.
2. The following steps may enable the Recipient to comply with its obligations under paragraph 1:

- a. Before providing any material support or resources to an individual or entity, the Recipient will verify that the individual or entity does not (i) appear on the master list of Specially Designated Nationals and Blocked Persons, which list is maintained by the U.S. Treasury's Office of Foreign Assets Control (OFAC) and is available online at OFAC's website: <http://www.treas.gov/offices/eotffc/ofac/sdn/t11sdn.pdf>, or (ii) is not included in any supplementary information concerning prohibited individuals or entities that may be provided by USAID to the Recipient.

- b. Before providing any material support or resources to an individual or entity, the Recipient also will verify that the individual or entity has not been designated by the United Nations Security (UNSC) sanctions committee established under UNSC Resolution 1267 (1999) (the "1267 Committee") [individuals and entities linked to the Taliban, Usama bin Laden, or the Al Qaida Organization]. To determine whether there has been a published designation of an individual or entity by the 1267 Committee, the Recipient should refer to the consolidated list available online at the Committee's website: <http://www.un.org/Docs/sc/committees/1267/1267ListEng.htm>.

- c. Before providing any material support or resources to an individual or entity, the Recipient will consider all information about that individual or entity of which it is aware and all public information that is reasonably available to it or of which it should be aware.

- d. The Recipient also will implement reasonable monitoring and oversight procedures to safeguard against assistance being diverted to support terrorist activity.

3. For purposes of this Certification.

- a. "Material support and resources" means currency or monetary instruments or financial securities, financial services, lodging, training, expert advice or assistance, safehouses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel, transportation, and other physical assets, except medicine or religious materials."

b. "Terrorist act" means-

(i) an act prohibited pursuant to one of the 12 United Nations Conventions and Protocols related to terrorism (see UN terrorism conventions Internet site:

<http://untreaty.un.org/English/Terrorism.asp>); or

(ii) an act of premeditated, politically motivated violence perpetrated against noncombatant targets by sub-national groups or clandestine agents; or

(iii) any other act intended to cause death or serious bodily injury to a civilian, or to any other person not taking an active part in hostilities in a situation of armed conflict, when the purpose of such act, by its nature or context, is to intimidate a population, or to compel a government or an international organization to do or to abstain from doing any act.

c. "Entity" means a partnership, association, corporation, or other organization, group or subgroup.

d. References in this Certification to the provision of material support and resources shall not be deemed to include the furnishing of USAID funds or USAID-financed commodities to the ultimate beneficiaries of USAID assistance, such as recipients of food, medical care, micro-enterprise loans, shelter, etc., unless the Recipient has reason to believe that one or more of these beneficiaries commits, attempts to commit, advocates, facilitates, or participates in terrorist acts, or has committed, attempted to commit, facilitated or participated in terrorist acts.

e. The Recipient's obligations under paragraph 1 are not applicable to the procurement of goods and/or services by the Recipient that are acquired in the ordinary course of business through contract or purchase, e.g., utilities, rents, office supplies, gasoline, etc., unless the Recipient has reason to believe that a vendor or supplier of such goods and services commits, attempts to commit, advocates, facilitates, or participates in terrorist acts, or has committed, attempted to commit, facilitated or participated in terrorist acts.

This Certification is an express term and condition of any agreement issued as a result of this application, and any violation of it shall be grounds for unilateral termination of the agreement by USAID prior to the end of its term.

Signed: _____

(Typed Name and Title) Date

(Name of Organization)

Appendix E: Solicitations

The following sections of Solicitations in Afghanistan will need to be amended:

Section A –Application and submission Information

Include a statement in the submission instructions

“The applicant must submit the attached Information Form to (Kabul_usaid_vsu@state.gov). Only high quality scanned versions will be accepted. Along with this form you must attach a copy of the relevant Afghan business licenses and copies of the photo identification of the Key Individuals as defined on the form. On emails, reference the specific Solicitation Number and your company name in the “Subject” line.”

Appendix F: Mandatory Clause for Contracts and Awards

I. 4-14.001 [the Contracting Officer shall modify as appropriate for assistance awards]

Information for Non-US contractors, subcontractors, and key individuals.

- (a) The contractor must complete and submit the “USAID Information Form” in appendix B, for:
- (i) Itself, if it is a non-U.S. entity;
 - (ii) Each subcontractor or subcontractor of a subcontractor, regardless of the tier, that is a non-U.S. entity; or
 - (iii) Each key individual that is a non-U.S. entity.

- (b) For purposes of this clause, the following definitions apply:

“Non-U.S. entity” means (1) any non-US citizen or non-permanent legal resident of the United States; or (2) any entity that is not formed in the United States or for which 50% or more of the equity is owned or controlled by persons who are not U.S. citizens or permanent legal residents of the United States.

“Key individuals” means (i) an individual or entity owning 10% or more equity stake in the organization, whether publically- or privately-held; (ii) principal officers of the organization's governing body (e.g., chairman, vice chairman, treasurer or secretary of the board of directors or board of trustees); (iii) the principal officer and deputy principal officer of the organization (e.g., executive director, deputy director; president, vice president); (iv) the program manager or chief of party for the USAID-financed program; and (v) any other person with significant responsibilities for administration of USAID financed activities or resources.

- (c) The requirements of paragraph (a) of this clause must be completed at prior to the Government's acceptance of the contract and following that, at the earlier of:
- (i) Once a year; or
 - (ii) When there is a change or addition to any entity or person identified in paragraph (a).

(d) USAID reserves the right to rescind approval for a sub-award in the event that USAID subsequently becomes aware of information indicating that the sub-award is contrary to U.S. law or policy prohibiting support for terrorism, or facilitating criminal activity. In such cases, USAID's Contracting Officer will provide written instructions to the recipient to terminate the sub-award.

(End of provision)

II. 4-14.002 [Assistance Awards shall use the ATC as set forth in Appendix D]

Certification Regarding Provision of Support to Persons Engaged in Terrorism

- (a) By entering into this contract, the contractor certifies, to the best of its knowledge and belief that:

1. The Contractor, to the best of its current knowledge, did not provide, within the previous ten years, and will take all reasonable steps to ensure that it does not and will not knowingly provide, material support or resources to any individual or entity that commits, attempts to commit, advocates, facilitates, or participates in terrorist acts, or has committed, attempted to commit, facilitated, or participated in terrorist acts, as that term is defined in paragraph 3.
2. The following steps may enable the Contractor to comply with its obligations under paragraph 1:
 - a. Before providing any material support or resources to an individual or entity, the Contractor will verify that the individual or entity does not (i) appear on the master list of Specially Designated Nationals and Blocked Persons, which list is maintained by the U.S. Treasury's Office of Foreign Assets Control (OFAC) and is available online at OFAC's website : <http://www.treas.gov/offices/eotffc/ofac/sdn/t11sdn.pdf>, or (ii) is not included in any supplementary information concerning prohibited individuals or entities that may be provided by USAID to the Contractor.
 - b. Before providing any material support or resources to an individual or entity, the Contractor also will verify that the individual or entity has not been designated by the United Nations Security (UNSC) sanctions committee established under UNSC Resolution 1267 (1999) (the "1267 Committee") [individuals and entities linked to the Taliban, Usama bin Laden, or the Al Qaida Organization]. To determine whether there has been a published designation of an individual or entity by the 1267 Committee, the Contractor should refer to the consolidated list available online at the Committee's website: <http://www.un.org/Docs/sc/committees/1267/1267ListEng.htm>.
 - c. Before providing any material support or resources to an individual or entity, the Contractor will consider all information about that individual or entity of which it is aware and all public information that is reasonably available to it or of which it should be aware.
 - d. The Contractor also will implement reasonable monitoring and oversight procedures to safeguard against assistance being diverted to support terrorist activity.
3. For purposes of this Certification.
 - a. "Material support and resources" means currency or monetary instruments or financial securities, financial services, lodging, training, expert advice or assistance, safehouses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel, transportation, and other physical assets, except medicine or religious materials."
 - b. "Terrorist act" means-
 - (i) an act prohibited pursuant to one of the 12 United Nations Conventions and Protocols related to terrorism (see UN terrorism conventions Internet site: <http://untreaty.un.org/English/Terrorism.asp>); or
 - (ii) an act of premeditated, politically motivated violence perpetrated against noncombatant targets by subnational groups or clandestine agents; or
 - (iii) any other act intended to cause death or serious bodily injury to a civilian, or to any other person not taking an active part in hostilities in a situation of armed conflict, when the purpose of such act, by its nature or context, is to intimidate a

population, or to compel a government or an international organization to do or to abstain from doing any act.

- c. "Entity" means a partnership, association, corporation, or other organization, group or subgroup.
- d. References in this Certification to the provision of material support and resources shall not be deemed to include the furnishing of USAID funds or USAID-financed commodities to the ultimate beneficiaries of USAID assistance, such as recipients of food, medical care, micro-enterprise loans, shelter, etc., unless the Contractor has reason to believe that one or more of these beneficiaries commits, attempts to commit, advocates, facilitates, or participates in terrorist acts, or has committed, attempted to commit, facilitated or participated in terrorist acts.
- e. The Contractor's obligations under paragraph 1 are not applicable to the procurement of goods and/or services by the Contractor that are acquired in the ordinary course of business through contract or purchase, e.g., utilities, rents, office supplies, gasoline, etc., unless the Contractor has reason to believe that a vendor or supplier of such goods and services commits, attempts to commit, advocates, facilitates, or participates in terrorist acts, or has committed, attempted to commit, facilitated or participated in terrorist acts.

(b) By entering into this contract, the Offeror acknowledges that it has a continuing obligation and shall notify the Contracting Officer within 72 hours in writing if it has intentionally or unintentionally taken any actions that have the result and effect of being inconsistent with the certification in subsection (a) of this clause.

(c) The certification in paragraph (a) of this provision and the requirement to update the contracting officer as to a change in status as set forth in paragraph (b) are material representations upon which reliance was placed when making award. If it is later determined that the Offeror knowingly rendered an erroneous certification, or did not notify the contracting officer in writing of a change in such certification, in addition to other remedies available to the Government, the Contracting Officer may terminate the contract resulting from this solicitation for default.

(End of provision)

III. Restrictions on certain foreign purchases (june 2008)

(a) Except as authorized by the Office of Foreign Assets Control (OFAC) in the Department of the Treasury, the Contractor shall not acquire, for use in the performance of this contract, any supplies or services if any proclamation, Executive order, or statute administered by OFAC, or if OFAC's implementing regulations at 31 CFR Chapter V, would prohibit such a transaction by a person subject to the jurisdiction of the United States.

(b) Except as authorized by OFAC, most transactions involving Cuba, Iran, and Sudan are prohibited, as are most imports from Burma or North Korea, into the United States or its outlying areas. Lists of entities and individuals subject to economic sanctions are included in OFAC's List of Specially Designated Nationals and Blocked Persons at

<http://www.treas.gov/offices/enforcement/ofac/sdn>. More information about these restrictions, as well as updates, is available in the OFAC's regulations at 31 CFR Chapter V and/or on OFAC's website at <http://www.treas.gov/offices/enforcement/ofac>.

(c) The Contractor shall insert this clause, including this paragraph (c), in all subcontracts.

[In addition to the clauses set forth above, the following clause shall be included in any contract, grant or cooperative agreement awarded by USAID (i.e. USAID prime awards only)]

(d) Before awarding any grant or similar instrument, the Contractor/Recipient shall obtain from the proposed sub-awardee the certification required under USAID's Acquisition and Assistance Policy Determination 04-14 (AAPD 04-14), "Certification Regarding Terrorist Financing Implementation E.O. 13224 (Revision 2)

See Appendix D

[END OF PROVISION]

Appendix G: Mandatory Clause for PIOs

[This provision is applicable to grants to the United Nations or UN agencies and other PIOs. It supplements the standard provision entitled "Terrorist Financing Clause (UN Grants) (May 2003)."]

(a) USAID reserves the right to review, and either approve or reject, sub-awards in excess of \$150,000 if proposed under this agreement for: (i) any contract or subcontract with a non-U.S. organization or individual; or (ii) any grant or subgrant to a non-U.S. organization or individual. No approval (or failure to disapprove) by USAID shall relieve the contractor/recipient of its legal obligation to comply with applicable Executive Orders and laws. Contractor's notification and request for approval to sub-award shall include the Information Form for the proposed sub-awardee and a table depicting the work to be performed and the total value of the work to be performed by the sub-Contractor/Recipient and all tiers of sub-Contractor/Recipients. The Information Form will be submitted to (Kabul_usaid_vsu@state.gov). Only high quality scanned versions will be accepted. Along with this form you must attach a copy of the relevant Afghan business license and copies of the photo identification of the Key Individuals as defined on the form. On emails reference the specific Solicitation Number and your company name in the "Subject" line."

(b) USAID reserves the right to rescind approval for a sub-award in the event that USAID subsequently becomes aware of information indicating that the sub-award is contrary to U.S. law or policy prohibiting support for terrorism, or facilitating criminal activity. In such cases, USAID's Agreement Officer will provide written instructions to the recipient to terminate the sub-award.

(c) USAID reserves the right to terminate this contract/agreement if USAID determines that the recipient has failed to comply with any of the requirements of this provision.

(d) The Grantee agrees to promptly notify USAID's Activity Officer's Technical Representative (AOTR) in the event of any change in the identity of "key individuals" of any recipient of a sub-award described in paragraph (a). For purposes of this requirement, "key individuals" means (i) an individual or entity owning 10% or more equity stake in the organization, whether publically- or privately-held; (ii) principal officers of the organization's governing body (e.g., chairman, vice chairman, treasurer or secretary of the board of directors or board of trustees); (iii) the principal officer and deputy principal officer of the organization (e.g., executive director, deputy director; president, vice president); (iv) the program manager or chief of party for the USAID-financed program; and (v) any other person with significant responsibilities for administration of USAID financed activities or resources (while a comprehensive list is not possible, this would include any person acting in a role substantially similar to those outlined in (i)-(iv). For Private Security Companies, this would include leadership roles down to the level of field commanders). Note that this definition differs from the definition of "key personnel" under contracts and cooperative agreements.

(e) This provision, including this paragraph (e), shall be included in all contracts, subcontracts, grants and subgrants issued under this agreement.

[In addition to the clauses set forth above, the following clause shall be included only in the PIO grant awarded by USAID

(f) Before awarding any grant or similar instrument, the recipient shall obtain from the proposed sub-awardee the certification required under USAID's Acquisition and Assistance Policy Determination 04-14 (AAPD 04-14), "Certification Regarding Terrorist Financing Implementation E.O. 13224 (Revision 2)

Appendix H: Phase-In Plan

Phase I:

Private Security Companies (PSC): In order to avoid redundant submissions, determine which implementing partners (IP) will submit forms for each of the PSCs. Send implementation letter requiring vetting of current PSC by USAID IPs. This will include sending the information form to the IPs for each PSC and vetting. It is expected that this process will take 2-4 weeks.

Phase II:

New Solicitations: Include in all new Solicitations the requirement to vet non-U.S. Parties. It is expected that this process will take 2-4 weeks and may be partially completed in parallel with Phase I.

Phase III:

Existing Awards: Starting with our largest and most risky Awards (as determined using the criteria set forth in Appendix I), send implementation letters to the IP and negotiate modifications to fully implement the process for new Sub-awards. This process is expected to take 8-12 weeks.

Phase IV:

Existing Sub-awards: As needed vet existing Sub-awardees. In cooperation with our IPs, USAID/IG, and our USFOR-A partners react to current risks in the field. Vet Sub-awardees based on the risk to U.S. funds (as determined using the criteria set forth in Appendix I). This will be done on an as needed bases.

Appendix I: Risk-Based Vetting

The Vetting Threshold sets the minimum threshold to screen potential Awardees. In designing programs, technical or program offices may submit potential Awardees for vetting when the Award is below the Vetting Threshold. Considerations for vetting below the Vetting Threshold, include but are not limited to the following:

Security contracts (mandatory),

Geographic location of project,

Political significance of project,

Type of activity being implemented (e.g., certain activities such as security or construction carry a higher risk of encountering a Prohibited Party), and

Other information known formally or informally by the USG regarding potential Awardees or the risk to the project.